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15 COLD CREEK COMPOST, INC. and  
MARTIN MILECK  
16

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA

19 CALIFORNIA RIVER WATCH, a  
501(c)(3), non-profit, Public Benefit  
20 Corporation,

21 Plaintiff,

22 v.

23 COLD CREEK COMPOST, INC.;  
MARTIN MILECK,

24 Defendants.  
25

CASE NO: 3:14-cv-01212 VC

**STIPULATED REQUEST FOR ORDER  
SHORTENING TIME FOR HEARING ON  
PLAINTIFF'S MOTION TO  
VOLUNTARILY DISMISS AS MODIFIED  
[Civil L.R. 6-1(b); 6-2]**

Date: December 4, 2014  
Time: 10:00 a.m.  
Ctrm: 10  
Judge: Hon. Vince Chhabria

26 Trial Date: May 11, 2015  
27  
28

1 Plaintiff California River Watch and Defendants Cold Creek Compost, Inc., and Martin  
2 Mileck hereby jointly request that the time for hearing of Plaintiff's Motion for Voluntarily  
3 Dismissal filed this date (DKT #33) be shortened from December 4, 2014 to October 30, 2014  
4 at 10:00 a.m. The basis for this stipulation is set forth in the Declaration of David J. Weinsoff  
5 as follows:

6 **DECLARATION OF DAVID J. WEINSOFF**

7 I, David J. Weinsoff, declare as follows:

8 1. I am an attorney at law duly licensed to practice law before the United States  
9 District Court for the Northern District of the State of California and am the principal of the Law  
10 Office of David J. Weinsoff, co-counsel of record for Plaintiff California River Watch in the  
11 above-described action. I make the following declaration, specifically providing the information  
12 required by Local Rule 6-2, in support of Plaintiff's Motion to Voluntarily Dismiss based upon  
13 my own personal knowledge and if called to testify I could and would testify competently thereto  
14 as follows.

15 2. The parties' request shortening of time to hear Plaintiff's Motion to Voluntarily  
16 Dismiss. A hearing on the motion if scheduled on the Court's regular calendar will result in a  
17 continuing obligation to undertake wasteful and time-consuming discovery (consistent with the  
18 compressed time-frame set forth in the Pretrial Schedule) in a matter Plaintiff now seeks to  
19 dismiss. Hearing the Motion expeditiously will result in substantial cost savings to our clients  
20 and avoid the need of any court resources to resolve discovery and/or other case management  
21 disputes.

22 3. The "substantial harm" here is the burden on the parties to continue wasteful and  
23 time-consuming discovery under the compressed time-frame for completion of discovery by  
24 December 5<sup>th</sup> (addressed separately in the Joint Stipulation for Relief from Scheduling Order  
25 filed this date). The Court's adjudication of the Motion to Voluntarily Dismiss on a shortened  
26 time-frame would alleviate the parties' continuing obligation to continue discovery in a matter  
27 the Plaintiff argues is ripe for dismissal.  
28

4. The parties have conducted a number of “meet and confer” telephonic conferences and e-mail correspondence regarding this request with the requirements imposed under Civil L.R. 37-1(a). There is no disagreement between the parties on the request for an order shortening time. The parties, however, were unable to stipulate to the dismissal of the case.

5. The parties have previously stipulated, and the Court has granted the following extensions of time in this case:

- Stipulation Extending Time Within Which to Respond to Complaint for Injunctive Relief, Civil Penalties, Restitution and Remediation (DKT #11);
- Stipulation and Consent to Filing of First Amended Complaint; Stipulation and Request for Continuance of Initial Case Management Conference (DKT #20); and,
- Stipulation Continuing Case Management Conference and Extending the Deadline for Case Management Statement (DKT #28).

An additional stipulated request for relief from the current Pretrial Scheduling Order is currently pending before this Court.

6. The requested time modification for Plaintiff’s Motion to Voluntarily Dismiss would positively impact the schedule of the case by permitting the parties to expeditiously present argument to the Court on the merits of the filed Motion to Voluntarily Dismiss, obtaining a ruling from the Court that will inform the parties whether the case can conclude or if continued time-consuming and expensive discovery will be necessary. The Court’s granting of an order shortening time for hearing on Plaintiff’s Motion for Dismiss is respectfully requested.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Fairfax, California on October 16, 2014.

  
 \_\_\_\_\_  
 DAVID J. WEINSOPF

WHEREFORE, IT IS HEREBY STIPULATED by and between the parties, through their counsel of record, with the consent and approval of this Court, that the time for hearing on Plaintiff's Motion to Voluntarily Dismiss be shortened from December 4, 2014 to October 30, 2014.

Dated: October 16, 2014

/s/ David J. Weinsoff  
DAVID J. WEINSOFF  
Attorney for Plaintiff  
CALIFORNIA RIVER WATCH

Dated: October 16, 2014

/s/ Sherri M. Kirk  
SHERRI M. KIRK  
Attorney for Defendants  
COLD CREEK COMPOST, INC., MARTIN  
MILECK

~~PROPOSED~~ ORDER AS MODIFIED

The Court has considered the Stipulated Request for Order Shortening Time for Hearing on Plaintiff's Motion to Voluntarily Dismiss, and good cause appearing therefore,

**IT IS THEREFORE ORDERED** that

1. The hearing on Plaintiff's Motion To Voluntarily Dismiss shall be held on Thursday, ~~October 30~~ November 6, 2014 at 10:00 a.m.
2. Plaintiff shall serve the Motion to Voluntarily Dismiss by electronic transmission within one business day of this Order being signed.
3. Time is shortened to permit the hearing on the Motion to Voluntarily Dismiss.
4. Opposition to the Motion to Voluntarily Dismiss shall be filed on October 24, 2014.
5. Any Reply to the Opposition shall be filed on October 29, 2014.

DATED: October 21, 2014

  
VINCE CHHABRIA  
UNITED STATE DISTRICT JUDGE